

## R E M A R K S

Claims 1 – 3 are currently pending in the present application. With this Response, Applicant provides a replacement page for FIG. 4, and amends the specification and claims 1 - 3. No new matter is introduced.

### OBJECTED DRAWING

The drawing is objected to under 37 C.F.R. § 1.83(a) as introducing new matter and for failing to show every feature specified in claim 1. Applicant encloses replacement pages, in marked up and clean versions, that delete the elements of FIG. 4 identified by the Examiner as constituting new matter, and that add product pill 9 as a claimed element missing from the figure. Accordingly, Applicant respectfully requests that the objections be withdrawn.

### REJECTION UNDER 35 U.S.C. § 112

Claim 1 is rejected under the first paragraph of 35 U.S.C. § 112 as failing to comply with the written description requirement. Specifically, the examiner suggests that the specification fails to support the limitation “is independent of time”. Applicant amends claim 1 to eliminate this limitation, and in its place recite that the electronic switch operates “so that each of an electrical connection and an electrical disconnection to the heating element depends on an ambient light intensity” (see, e.g., page 2, lines 19 – 22 of Applicant’s specification). Accordingly, Applicant respectfully requests that the rejection as to claim 1 be withdrawn.

Claims 2 and 3 are rejected under the first paragraph of 35 U.S.C. § 112 for failing to be enabled. Specifically, the Examiner suggests that the limitation “predetermined value” is not taught in the specification. Applicant amends claims 2 and 3 to replace the term “predetermined value” with the term “certain value”, the latter term having appeared in the originally-filed claims. Accordingly, Applicant respectfully requests that the rejection as to claims 2 and 3 be withdrawn.

#### REJECTION UNDER 35 U.S.C. § 103

Claims 1 – 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,937,140 to Leonard et al. in view of Spector. Applicant amends independent claim 1 to further define the nature of his invention, and respectfully traverses this rejection.

In amended independent claim 1, Applicant discloses an electrical diffuser which includes a heating element embodied as an electrical resistor, arranged to supply heat to at least one of a solid product pill and a container of a liquid product, so that the heat generated by said heating element causes evaporation or sublimation of at least one of the solid product pill and the liquid product, further including an electronic switch automatically operated by a light sensor, so that so that each of an electrical connection and an electrical disconnection to the heating element depends on an ambient light intensity.

Leonard discloses a plug-in diffuser including a resistive heating element (see, e.g., abstract of Leonard). The Examiner acknowledges that Leonard does not disclose Applicant’s claimed light sensor for automatic operation, and suggests that Spector discloses this missing limitation.

Spector discloses a light-activated fan-driven aroma generator, in which a light sensor is sensitive to a change in ambient light intensity to cause the aroma generator to be switched on or switched off, and to activate a timed electronic relay to cause the aroma generator to operate in

the selected mode (i.e., switched on or switched off) for a predetermined time (see, e.g., FIG. 4 of Spector).

In contrast to Spector, Applicant discloses a diffuser with light sensor that is automatically operated so that each of an electrical connection and an electrical disconnection to the heating element depends on an ambient light intensity. In other words, unlike Applicant's claimed invention, the device of Spector fails to control both an electrical connection and an electrical disconnection based on an ambient light intensity.

In contrast to the aroma generator of Spector, Applicant's electrical diffuser is preferably plugged into a socket to be operated by commercial electrical power, so that its operation need not be limited to a predetermine timed period like the device of Spector. Applicant's claimed device provides an advantage in responsiveness over the device of Spector, for example, in that its operation need not be limited in time so long as light intensity is above a predetermined threshold, and conversely, need not be extended to fill a set period of time even when light intensity drops below the threshold well before the end of the set period of time.

Accordingly, Applicant respectfully submits that independent claim 1 is not made obvious by the combination of Leonard and Spector, and is therefore in condition for allowance. As dependent claims 2 and 3 each depend from allowable claim 1, Applicant further submits that claims 2 and 3 are also allowable for at least this reason.

## CONCLUSION

An earnest effort has been made to be fully responsive to the Examiner's objections. In view of the above amendments and remarks, it is believed that claims 1 – 3, consisting of independent claim 1 and the claims dependent therefrom, are in condition for allowance. Passage of this case to allowance is earnestly solicited. However, if for any reason the Examiner should consider this application not to be in condition for allowance, he is respectfully requested

to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,



\_\_\_\_\_  
Thomas L. Dean  
Reg. No. 44,5287

**CUSTOMER NUMBER 026304**

Katten Muchin Zavis Rosenman  
575 Madison Avenue  
New York, NY 10022-2585  
(212) 940-8703  
Docket No.: HERR 19.510 (100700 – 00056)  
TJB: pm

(REPLACEMENT PAGE)

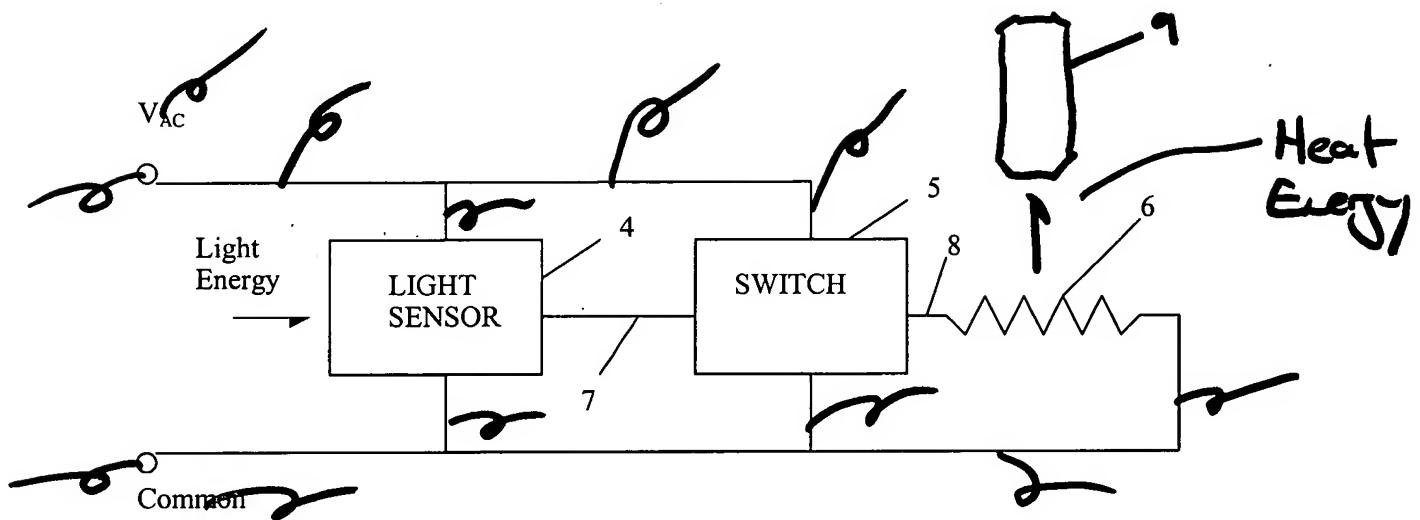


FIG. 4

# (REPLACEMENT SHEET)

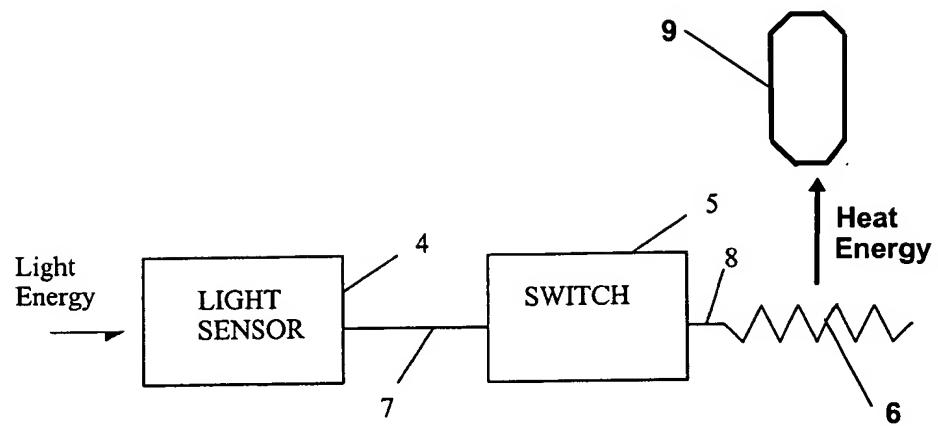


FIG. 4